

Before the
Federal Communications Commission
Washington, D.C. 20554

JUN 11 1998
FEDERAL COMMUNICATIONS COMMISSION

In the Matter of)	
)	
Implementation of the)	
Telecommunications Act of 1996:)	
)	
Telecommunications Carriers' Use)	CC Docket No. 96-115
of Customer Proprietary Network)	
Information and Other Customer)	
Information)	

COMMENTS OF ALLTEL COMMUNICATIONS, INC.

ALLTEL Communications, Inc. ("ALLTEL"),¹ hereby submits its comments in response to the Further Notice of Proposed Rulemaking in the above-referenced matter.² ALLTEL limits its comments to those issues raised in the FNPRM respecting:

1) further limitations of a carrier's use of CPNI; 2) whether additional protections of carrier information are needed; and 3) the need, if any, for additional enforcement

¹ ALLTEL Communications, Inc. is the subsidiary of ALLTEL Corporation through which CMRS, long distance, and other competitive telecommunications services are provided to subscribers. Other affiliates and subsidiaries of ALLTEL Corporation provide wireline local exchange service in various states.

² See, Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information. Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 96-115, FCC 98-27 (released February 26, 1998). (the "Second Report and Order" or "FNPRM") Due to the period between release of the FNPRM and its publication in the Federal Register, the Commission extended the period for filing comments until June 8, 1998. See Public Notice, DA 98-864 (released May 7, 1998). ALLTEL files these comments pursuant to the Commission's May 7th Public Notice, and requests that they be made part of the record in this proceeding. Although ALLTEL has had the advantage of reviewing earlier filed comments, no party will be prejudiced inasmuch as the Commission has, in addition to extending the comment date, afforded parties the opportunity to submit replies.

mechanisms.³ Given the current status of the rules promulgated under the Second Report and Order in this proceeding⁴ it would be counterproductive to issue further rules which go beyond the text of the Act and further complicate the already complex implementation efforts of carriers.

ALLTEL shares the view of virtually all other parties,⁵ that Congress carefully crafted section 222 of the Act to balance both the privacy concerns of the subscriber with the competitive imperative of the carriers. To that end, section 222 was crafted to circumscribe a carrier's use of CPNI but not bar it altogether. Rather, the reservation of the carrier's limited right to make use of a subscriber's CPNI with the context of the existing service relationship gives expression to Congress' realization that carriers and customers alike have an underlying interest in openly discussing their service relationships without the mandated introduction of superfluous and time consuming, notices, consents and safeguards. While the Commission may consider whether to provide subscribers with the absolute right to prohibit the use of their CPNI for any marketing purpose, the creation of any such absolute right would be in direct conflict with the provisional right expressly provided to carriers in section 222. The

³ See FNPRM at paras. 204-207.

⁴ ALLTEL notes that it and numerous other carriers, on May 26, 1998, sought formal reconsideration of certain aspects of the Second Report and Order. Further, ALLTEL notes that the Commission has yet to fully dispose of the CTIA and GTE petitions for either deferral or stay of the effective date of the Second Report and Order. CTIA has also sought forbearance of the new rules as they regard CMRS carriers and an appeal the Second Report and Order has been filed with the United States Court of Appeals for the Tenth Circuit. See, U.S. West, Inc. v. FCC, Case No. 98-9518 (filed May 4, 1998).

⁵ See, for example, the comments of Ameritech, Intermedia, Sprint PCS, Vanguard Cellular, AT&T, MCI, Sprint, Bell Atlantic, BellSouth, GTE, SBC, US West and USTA.

Commission should abandon any attempt to expand the right to control CPNI beyond that provided for in the statute.

Further, and as a purely practical matter, ALLTEL notes that any decision to expand the subscriber's right to limit use of CPNI would require the Commission and the carriers to revisit the one-time notice requirement set forth in the Second Report and Order and subsequent Order.⁶ Carriers, in their ongoing, good faith attempts to comply with the new rules at the harried pace dictated by both the Commission's deadlines and the competitive market place, have already considered the publication of notices to subscribers of their limited right to control the use of their CPNI. The Commission has also made the determination that certain previous notices materially comply with the requirements of the Second Report and Order.⁷ Yet, within the context of the FNPRM, the Commission is considering altering the very nature of the rights upon which these notices are based. Neither the carriers nor the Commission can afford to squander resources on false starts, duplicative orders and publications which, in all likelihood, would only serve to confuse subscribers.

The Commission also considers in the FNPRM whether additional safeguards are needed to protect the confidentiality of carrier information "including that of

⁶ At the request of certain carriers, the Commission has found that the notices supplied to certain subscribers under the Computer III regimen "materially complied" with the one-time notice requirements of the Second Report and Order. See, Order in CC Docket No. 96-115, DA98-971 (released May 21, 1998) (the "Order").

⁷ Id. This judgment would have to be revisited should the Commission decide to expand the subscriber's right to control CPNI beyond that expressly provided for in the statute and which provided the basis for the Order.

resellers and information service providers”.⁸ While some parties advocate additional safeguards⁹ ALLTEL agrees with USTA’s view¹⁰ that no additional safeguards are needed in the absence of affirmative evidence that a carrier has disregarded its obligation under section 222(b) to protect the confidentiality of other carriers’ proprietary information. While TRA believes that the use restrictions and personnel training provided for in the current rules has proven adequate in the past, TRA also openly admits that the data upon which it bases its assessment of the problem is both antiquated and predates the imposition of the section 222(b) obligation on carriers under the 1996 Act.¹¹ ALLTEL argues that the Commission, having already promulgated a granular set of safeguards in the Second Report and Order, need not impose any additional burdens on carriers unless and until it has evidence that its current safeguard regimen is ineffective. The implementation of these safeguards, as noted elsewhere by ALLTEL, are expensive and time consuming.¹² Further, the imposition of the additional safeguards requested would create a hornets’ nest of unintended consequences which would interfere with existing carrier to carrier relationships and standards for customer service thereby frustrating carriers and

⁸ See FNPRM at paras. 203-207. ALLTEL agrees with other parties that ISPs are not carriers for purposes of section 222, particularly since they have been deemed not to be carriers for other purposes. See, Comments of USTA at pages 4-5, Comments of GTE at page 5; Comments of BellSouth at pages 4-5; Reply Comments of Ameritech at pages 2-3.

⁹ See Comment of TRA at pages 9-11; Comments of Intermedia at page 8.

¹⁰ See USTA Comments at page 5-6.

¹¹ See TRA Comments at pages 3-6.

subscribers alike.¹³ As suggested by US West, the Commission should proceed on a case-by-case basis and not attempt to predict all of the circumstances under which section 222(b) issues may, or may not arise.¹⁴

Similarly, there is no need at this time for the Commission to adopt additional enforcement mechanisms. While the Commission's ability to police violations of section 222(b) must be maintained, there has been no persuasive showing that the existing enforcement mechanisms are inadequate. In ALLTEL's judgment, the Commission's existing complaint process is sufficient to handle enforcement issues and the courts will continue to provide additional avenues of enforcement authority.¹⁵

Respectfully submitted,

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¹² See ALLTEL Petition for Reconsideration in Docket No. 96-115, filed May 26, 1998. ALLTEL again notes that small, rural and mid-sized carriers are new to these safeguards and will require additional time and resources for implementation.


¹³ See Reply Comments of Ameritech at pages 3-7; Comments of US West at pages 7-10;

¹⁴ See Reply Comments of US West at page 8.

¹⁵ See Comments of US West at pages 10-11.

CERTIFICATE OF SERVICE

I, Glenn Rabin, do certify that on June 8, 1998 copies of the Comments of ALLTEL Communications, Inc. were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.



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